

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN SENATE JULY 16, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1070

Introduced by Assembly Member Hill

February 27, 2009

An act to amend Sections 801.01, 2006, 2008, 2225.5, 2227, and 2425.3 of, and to add Section 804.5 to, the Business and Professions Code, and to amend Sections 12529, 12529.5, 12529.6, and 12529.7 of the Government Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1070, as amended, Hill. Healing arts.

(1) Existing law provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California, physicians and surgeons by the Medical Board of California (Medical Board), and podiatrists by the California Board of Podiatric Medicine. Existing law requires those licensees, insurers providing professional liability insurance to those licensees, and governmental agencies that self-insure those licensees to report specified settlements, arbitration awards, or civil judgments to the licensee's board if based on the licensee's alleged negligence, error, or omission in practice or his or her rendering of unauthorized professional services.

This bill would specify that the reporting requirements apply to the University of California, as specified. With respect to a governmental agency required to submit a report, including a local governmental agency, the bill would require the agency to, prior to submitting a report, provide written notice of its intention to file a report to the affected licensee and provide the licensee with an opportunity to respond to the agency, as specified. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

Existing law requires licensees and insurers required to make these reports to send a copy of the report to the claimant or his or her counsel and requires a claimant or his or her counsel who does not receive a copy of the report within a specified time period to make the report to the appropriate board. Existing law makes a failure of a licensee, claimant, or counsel to comply with these requirements a public offense punishable by a specified fine.

This bill would require any entity or person required to make a report to notify the claimant or his or her counsel that the report has been sent to the appropriate board and would require the claimant or his or her counsel to make the report if the notice is not received within a specified time.

The bill would also make a failure to substantially comply with any of the reporting requirements an infraction punishable by a specified fine. By expanding the scope of a crime, the bill would impose a state-mandated local program.

Existing law requires these reports to include certain information, including a brief description of the facts of each claim, charge, or allegation, and the amount of the judgment or award and the date of its entry or service.

This bill would eliminate the requirement that this description be brief and would require the description to also include the role of each physician and surgeon or podiatrist in the care or professional services provided to the patient, as specified. The bill would also require the report to include a copy of the judgment or award.

(2) The Medical Practice Act provides for the regulation of physicians and surgeons by the Medical Board, and provides that the protection of the public is the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions.

This bill would prohibit any entity that provides early intervention, patient safety, or risk management programs to patients, or contracts for those programs for patients, from requiring that a patient waive his

or her rights to contact or cooperate with the board, or to file a complaint with the board.

(3) Existing law authorizes the Medical Board to appoint panels from its members for the purposes of fulfilling specified obligations and prohibits the president of the board from serving as a member of a panel.

This bill would allow the president of the board to serve as a member of a panel if there is a vacancy in the membership of the board.

(4) Under existing law, a physician and surgeon or podiatrist who fails to comply with a patient's medical record request, as specified, within 15 days, or who fails or refuses to comply with a court order mandating release of records, is required to pay a civil penalty of \$1,000 per day, as specified.

This bill would place a limit of \$10,000 on those civil penalties and would make other related changes, including providing a definition of "certified medical records," as specified.

(5) Existing law prescribes the disciplinary action that may be taken against a physician and surgeon or podiatrist. Among other things, existing law authorizes the licensee to be publicly reprimanded.

This bill would authorize the public reprimand to include a requirement that the licensee complete educational courses approved by the board.

(6) Existing law requires the Medical Board to request a licensed physician and surgeon to report, at the time of license renewal, any specialty board certification he or she holds, as specified. Existing law also authorizes a licensed physician and surgeon to report to the board, at the time of license renewal, information regarding his or her cultural background and foreign language proficiency.

This bill would instead require licensees to provide that information at the time of license renewal and immediately upon issuance of an initial license, except as specified.

Existing law requires a licensed physician and surgeon to also report, at the time of license renewal, his or her practice status, as specified.

This bill would also require that this information be provided immediately upon issuance of an initial license.

(7) Existing law creates the Health Quality Enforcement Section within the Department of Justice with the primary responsibility of investigating and prosecuting proceedings against licensees and applicants within the jurisdiction of the Medical Board and various other boards. Existing law simultaneously assigns a complaint received by the Medical Board to an investigator and a deputy attorney general,

as specified. Existing law makes these provisions inoperative on July 1, 2010, ~~and repeals them on January 1, 2010, unless a later enacted statute deletes or extends those dates.~~ Existing law also requires the Medical Board, in consultation with specified agencies, to report and make recommendations to the Governor and the Legislature on this prosecution model by July 1, 2009.

This bill would ~~make extend the operation of~~ those provisions ~~inoperative on July until January 1, 2012, and repeal them on January 1, 2013.~~ The bill would require the Medical Board to establish and implement a plan to assist in team building between its enforcement staff and the staff of the Health Quality Enforcement Section in order to ensure a common and consistent knowledge base. The bill would also require the Medical Board to, in consultation with specified agencies, report and make recommendations to the Governor and the Legislature on this enforcement and prosecution model by March 1, 2012. The bill would make other related changes.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 801.01 of the Business and Professions
- 2 Code is amended to read:
- 3 801.01. The Legislature finds and declares that the filing of
- 4 reports with the applicable state agencies required under this
- 5 section is essential for the protection of the public. It is the intent
- 6 of the Legislature that the reporting requirements set forth in this
- 7 section be interpreted broadly in order to expand reporting
- 8 obligations.
- 9 (a) A complete report shall be sent to the Medical Board of
- 10 California, the Osteopathic Medical Board of California, or the

1 California Board of Podiatric Medicine, with respect to a licensee
2 of the board as to the following:

3 (1) A settlement over thirty thousand dollars (\$30,000) or
4 arbitration award of any amount or a civil judgment of any amount,
5 whether or not vacated by a settlement after entry of the judgment,
6 that was not reversed on appeal, of a claim or action for damages
7 for death or personal injury caused by the licensee's alleged
8 negligence, error, or omission in practice, or by his or her rendering
9 of unauthorized professional services.

10 (2) A settlement over thirty thousand dollars (\$30,000), if the
11 settlement is based on the licensee's alleged negligence, error, or
12 omission in practice, or on the licensee's rendering of unauthorized
13 professional services, and a party to the settlement is a corporation,
14 medical group, partnership, or other corporate entity in which the
15 licensee has an ownership interest or that employs or contracts
16 with the licensee.

17 (b) The report shall be sent by the following:

18 (1) The insurer providing professional liability insurance to the
19 licensee.

20 (2) The licensee, or his or her counsel, if the licensee does not
21 possess professional liability insurance.

22 (3) A state or local governmental agency that self-insures the
23 licensee. For purposes of this section "state governmental agency"
24 includes, but is not limited to, the University of California.

25 (c) The entity, person, or licensee obligated to report pursuant
26 to subdivision (b) shall send the complete report if the judgment,
27 settlement agreement, or arbitration award is entered against or
28 paid by the employer of the licensee and not entered against or
29 paid by the licensee. "Employer," as used in this paragraph, means
30 a professional corporation, a group practice, a health care facility
31 or clinic licensed or exempt from licensure under the Health and
32 Safety Code, a licensed health care service plan, a medical care
33 foundation, an educational institution, a professional institution,
34 a professional school or college, a general law corporation, a public
35 entity, or a nonprofit organization that employs, retains, or contracts
36 with a licensee referred to in this section. Nothing in this paragraph
37 shall be construed to authorize the employment of, or contracting
38 with, any licensee in violation of Section 2400.

39 (d) The report shall be sent to the Medical Board of California,
40 the Osteopathic Medical Board of California, or the California

1 Board of Podiatric Medicine, as appropriate, within 30 days after
2 the written settlement agreement has been reduced to writing and
3 signed by all parties thereto, within 30 days after service of the
4 arbitration award on the parties, or within 30 days after the date
5 of entry of the civil judgment.

6 (e) The entity, person, or licensee required to report under
7 subdivision (b) shall notify the claimant or his or her counsel, if
8 he or she is represented by counsel, that the report has been sent
9 to the Medical Board of California, the Osteopathic Medical Board
10 of California, or the California Board of Podiatric Medicine. If the
11 claimant or his or her counsel has not received this notice within
12 45 days after the settlement was reduced to writing and signed by
13 all of the parties or the arbitration award was served on the parties
14 or the date of entry of the civil judgment, the claimant or the
15 claimant's counsel shall make the report to the appropriate board.

16 (f) Failure to substantially comply with this section is a public
17 offense punishable by a fine of not less than five hundred dollars
18 (\$500) and not more than five thousand dollars (\$5,000).

19 (g) (1) The Medical Board of California, the Osteopathic
20 Medical Board of California, and the California Board of Podiatric
21 Medicine may develop a prescribed form for the report.

22 (2) The report shall be deemed complete only if it includes the
23 following information:

24 (A) The name and last known business and residential addresses
25 of every plaintiff or claimant involved in the matter, whether or
26 not the person received an award under the settlement, arbitration,
27 or judgment.

28 (B) The name and last known business and residential address
29 of every licensee who was alleged to have acted improperly,
30 whether or not that person was a named defendant in the action
31 and whether or not that person was required to pay any damages
32 pursuant to the settlement, arbitration award, or judgment.

33 (C) The name, address, and principal place of business of every
34 insurer providing professional liability insurance to any person
35 described in subparagraph (B), and the insured's policy number.

36 (D) The name of the court in which the action or any part of the
37 action was filed, and the date of filing and case number of each
38 action.

39 (E) A description or summary of the facts of each claim, charge,
40 or allegation, including the date of occurrence and the licensee's

1 role in the care or professional services provided to the patient
2 with respect to those services at issue in the claim or action.

3 (F) The name and last known business address of each attorney
4 who represented a party in the settlement, arbitration, or civil
5 action, including the name of the client he or she represented.

6 (G) The amount of the judgment, the date of its entry, and a
7 copy of the judgment; the amount of the arbitration award, the date
8 of its service on the parties, and a copy of the award document; or
9 the amount of the settlement and the date it was reduced to writing
10 and signed by all parties. If an otherwise reportable settlement is
11 entered into after a reportable judgment or arbitration award is
12 issued, the report shall include both the settlement and a copy of
13 the judgment or award.

14 (H) The specialty or subspecialty of the licensee who was the
15 subject of the claim or action.

16 (I) Any other information the Medical Board of California, the
17 Osteopathic Medical Board of California, or the California Board
18 of Podiatric Medicine may, by regulation, require.

19 (3) Every professional liability insurer, self-insured
20 governmental agency, or licensee or his or her counsel that makes
21 a report under this section and has received a copy of any written
22 or electronic patient medical or hospital records prepared by the
23 treating physician and surgeon or podiatrist, or the staff of the
24 treating physician and surgeon, podiatrist, or hospital, describing
25 the medical condition, history, care, or treatment of the person
26 whose death or injury is the subject of the report, or a copy of any
27 deposition in the matter that discusses the care, treatment, or
28 medical condition of the person, shall include with the report,
29 copies of the records and depositions, subject to reasonable costs
30 to be paid by the Medical Board of California, the Osteopathic
31 Medical Board of California, or the California Board of Podiatric
32 Medicine. If confidentiality is required by court order and, as a
33 result, the reporter is unable to provide the records and depositions,
34 documentation to that effect shall accompany the original report.
35 The applicable board may, upon prior notification of the parties
36 to the action, petition the appropriate court for modification of any
37 protective order to permit disclosure to the board. A professional
38 liability insurer, self-insured governmental agency, or licensee or
39 his or her counsel shall maintain the records and depositions

1 referred to in this paragraph for at least one year from the date of
2 filing of the report required by this section.

3 (h) If the board, within 60 days of its receipt of a report filed
4 under this section, notifies a person named in the report, that person
5 shall maintain for the period of three years from the date of filing
6 of the report any records he or she has as to the matter in question
7 and shall make those records available upon request to the board
8 to which the report was sent.

9 (i) Notwithstanding any other provision of law, no insurer shall
10 enter into a settlement without the written consent of the insured,
11 except that this prohibition shall not void any settlement entered
12 into without that written consent. The requirement of written
13 consent shall only be waived by both the insured and the insurer.

14 (j) (1) A state or local governmental agency that self-insures
15 licensees shall, prior to sending a report pursuant to this section,
16 do all of the following with respect to each licensee who will be
17 identified in the report:

18 (A) Before deciding that a licensee will be identified, provide
19 written notice to the licensee that the agency intends to submit a
20 report in which the licensee may be identified, based on his or her
21 role in the care or professional services provided to the patient that
22 were at issue in the claim or action. This notice shall describe the
23 reasons for notifying the licensee. The agency shall include with
24 this notice a reasonable opportunity for the licensee to review a
25 copy of records to be used by the agency in deciding whether to
26 identify the licensee in the report.

27 (B) Provide the licensee with a reasonable opportunity to provide
28 a written response to the agency and written materials in support
29 of the licensee's position. If the licensee is identified in the report,
30 the agency shall include this response and materials in the report
31 submitted to a board under this section if requested by the licensee.

32 (C) At least 10 days prior to the expiration of the 30-day
33 reporting requirement under subdivision (d), provide the licensee
34 with the opportunity to present arguments to the body that will
35 make the final decision or to that body's designee. The body shall
36 review the care or professional services provided to the patient
37 with respect to those services at issue in the claim or action and
38 determine the licensee or licensees to be identified in the report
39 and the amount of the settlement to be apportioned to the licensee.

1 (2) Nothing in this subdivision shall be construed to modify
2 either the content of a report required under this section or the
3 timeframe for filing that report.

4 (k) For purposes of this section, “licensee” means a licensee of
5 the Medical Board of California, the Osteopathic Medical Board
6 of California, or the California Board of Podiatric Medicine.

7 SEC. 2. Section 804.5 is added to the Business and Professions
8 Code, to read:

9 804.5. The Legislature recognizes that various types of entities
10 are creating, implementing, and maintaining patient safety and
11 risk management programs that encourage early intervention in
12 order to address known complications and other unanticipated
13 events requiring medical care. The Legislature recognizes that
14 some entities even provide financial assistance to individual
15 patients to help them address these unforeseen health care concerns.
16 It is the intent of the Legislature, however, that such financial
17 assistance not limit a patient’s interaction with, or his or her rights
18 before, the Medical Board of California.

19 Any entity that provides early intervention, patient safety, or
20 risk management programs to patients, or contracts for those
21 programs for patients, shall not include, as part of any of those
22 programs or contracts, any of the following:

23 (a) A provision that prohibits a patient or patients from
24 contacting or cooperating with the board.

25 (b) A provision that prohibits a patient or patients from filing a
26 complaint with the board.

27 (c) A provision that requires a patient or patients to withdraw
28 a complaint that has been filed with the board.

29 SEC. 3. Section 2006 of the Business and Professions Code is
30 amended to read:

31 2006. (a) Any reference in this chapter to an investigation by
32 the board shall be deemed to refer to a joint investigation conducted
33 by employees of the Department of Justice and the board under
34 the vertical enforcement and prosecution model, as specified in
35 Section 12529.6 of the Government Code.

36 ~~(b) This section shall become inoperative on July 1, 2012, and~~
37 ~~as of January 1, 2013, is repealed, unless a later enacted statute,~~
38 ~~that becomes operative on or before January 1, 2013, deletes or~~
39 ~~extends the dates on which it becomes inoperative and is repealed.~~

1 **(b)** *This section shall remain in effect only until January 1, 2013,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2013, deletes or extends that date.*

4 SEC. 4. Section 2008 of the Business and Professions Code is
5 amended to read:

6 2008. The board may appoint panels from its members for the
7 purpose of fulfilling the obligations established in subdivision (c)
8 of Section 2004. Any panel appointed under this section shall at
9 no time be comprised of less than four members and the number
10 of public members assigned to the panel shall not exceed the
11 number of licensed physician and surgeon members assigned to
12 the panel. The president of the board shall not be a member of any
13 panel unless there is a vacancy in the membership of the board.
14 Each panel shall annually elect a chair and a vice chair.

15 SEC. 5. Section 2225.5 of the Business and Professions Code
16 is amended to read:

17 2225.5. (a) (1) A licensee who fails or refuses to comply with
18 a request for the certified medical records of a patient, that is
19 accompanied by that patient's written authorization for release of
20 records to the board, within 15 days of receiving the request and
21 authorization, shall pay to the board a civil penalty of one thousand
22 dollars (\$1,000) per day for each day that the documents have not
23 been produced after the 15th day, up to ten thousand dollars
24 (\$10,000), unless the licensee is unable to provide the documents
25 within this time period for good cause.

26 (2) A health care facility shall comply with a request for the
27 certified medical records of a patient that is accompanied by that
28 patient's written authorization for release of records to the board
29 together with a notice citing this section and describing the
30 penalties for failure to comply with this section. Failure to provide
31 the authorizing patient's certified medical records to the board
32 within 30 days of receiving the request, authorization, and notice
33 shall subject the health care facility to a civil penalty, payable to
34 the board, of up to one thousand dollars (\$1,000) per day for each
35 day that the documents have not been produced after the 30th day,
36 up to ten thousand dollars (\$10,000), unless the health care facility
37 is unable to provide the documents within this time period for good
38 cause. This paragraph shall not require health care facilities to
39 assist the board in obtaining the patient's authorization. The board

1 shall pay the reasonable costs of copying the certified medical
2 records.

3 (b) (1) A licensee who fails or refuses to comply with a court
4 order, issued in the enforcement of a subpoena, mandating the
5 release of records to the board shall pay to the board a civil penalty
6 of one thousand dollars (\$1,000) per day for each day that the
7 documents have not been produced after the date by which the
8 court order requires the documents to be produced, up to ten
9 thousand dollars (\$10,000), unless it is determined that the order
10 is unlawful or invalid. Any statute of limitations applicable to the
11 filing of an accusation by the board shall be tolled during the period
12 the licensee is out of compliance with the court order and during
13 any related appeals.

14 (2) Any licensee who fails or refuses to comply with a court
15 order, issued in the enforcement of a subpoena, mandating the
16 release of records to the board is guilty of a misdemeanor
17 punishable by a fine payable to the board not to exceed five
18 thousand dollars (\$5,000). The fine shall be added to the licensee's
19 renewal fee if it is not paid by the next succeeding renewal date.
20 Any statute of limitations applicable to the filing of an accusation
21 by the board shall be tolled during the period the licensee is out
22 of compliance with the court order and during any related appeals.

23 (3) A health care facility that fails or refuses to comply with a
24 court order, issued in the enforcement of a subpoena, mandating
25 the release of patient records to the board, that is accompanied by
26 a notice citing this section and describing the penalties for failure
27 to comply with this section, shall pay to the board a civil penalty
28 of up to one thousand dollars (\$1,000) per day for each day that
29 the documents have not been produced, up to ten thousand dollars
30 (\$10,000), after the date by which the court order requires the
31 documents to be produced, unless it is determined that the order
32 is unlawful or invalid. Any statute of limitations applicable to the
33 filing of an accusation by the board against a licensee shall be
34 tolled during the period the health care facility is out of compliance
35 with the court order and during any related appeals.

36 (4) Any health care facility that fails or refuses to comply with
37 a court order, issued in the enforcement of a subpoena, mandating
38 the release of records to the board is guilty of a misdemeanor
39 punishable by a fine payable to the board not to exceed five
40 thousand dollars (\$5,000). Any statute of limitations applicable to

1 the filing of an accusation by the board against a licensee shall be
2 tolled during the period the health care facility is out of compliance
3 with the court order and during any related appeals.

4 (c) Multiple acts by a licensee in violation of subdivision (b)
5 shall be punishable by a fine not to exceed five thousand dollars
6 (\$5,000) or by imprisonment in a county jail not exceeding six
7 months, or by both that fine and imprisonment. Multiple acts by
8 a health care facility in violation of subdivision (b) shall be
9 punishable by a fine not to exceed five thousand dollars (\$5,000)
10 and shall be reported to the State Department of Public Health and
11 shall be considered as grounds for disciplinary action with respect
12 to licensure, including suspension or revocation of the license or
13 certificate.

14 (d) A failure or refusal of a licensee to comply with a court
15 order, issued in the enforcement of a subpoena, mandating the
16 release of records to the board constitutes unprofessional conduct
17 and is grounds for suspension or revocation of his or her license.

18 (e) Imposition of the civil penalties authorized by this section
19 shall be in accordance with the Administrative Procedure Act
20 (Chapter 5 (commencing with Section 11500) of Division 3 of
21 Title 2 of the Government Code).

22 (f) For purposes of this section, “certified medical records”
23 means a copy of the patient’s medical records authenticated by the
24 licensee or health care facility, as appropriate, on a form prescribed
25 by the board.

26 (g) For purposes of this section, a “health care facility” means
27 a clinic or health facility licensed or exempt from licensure
28 pursuant to Division 2 (commencing with Section 1200) of the
29 Health and Safety Code.

30 SEC. 6. Section 2227 of the Business and Professions Code is
31 amended to read:

32 2227. (a) A licensee whose matter has been heard by an
33 administrative law judge of the Medical Quality Hearing Panel as
34 designated in Section 11371 of the Government Code, or whose
35 default has been entered, and who is found guilty, or who has
36 entered into a stipulation for disciplinary action with the board,
37 may, in accordance with the provisions of this chapter:

38 (1) Have his or her license revoked upon order of the board.

39 (2) Have his or her right to practice suspended for a period not
40 to exceed one year upon order of the board.

1 (3) Be placed on probation and be required to pay the costs of
2 probation monitoring upon order of the board.

3 (4) Be publicly reprimanded by the board. The public reprimand
4 may include a requirement that the licensee complete relevant
5 educational courses approved by the board.

6 (5) Have any other action taken in relation to discipline as part
7 of an order of probation, as the board or an administrative law
8 judge may deem proper.

9 (b) Any matter heard pursuant to subdivision (a), except for
10 warning letters, medical review or advisory conferences,
11 professional competency examinations, continuing education
12 activities, and cost reimbursement associated therewith that are
13 agreed to with the board and successfully completed by the
14 licensee, or other matters made confidential or privileged by
15 existing law, is deemed public, and shall be made available to the
16 public by the board pursuant to Section 803.1.

17 SEC. 7. Section 2425.3 of the Business and Professions Code
18 is amended to read:

19 2425.3. (a) A licensed physician and surgeon shall report to
20 the board, immediately upon issuance of an initial license and at
21 the time of license renewal, any specialty board certification he or
22 she holds that is issued by a member board of the American Board
23 of Medical Specialties or approved by the Medical Board of
24 California.

25 (b) A licensed physician and surgeon shall also report to the
26 board, immediately upon issuance of an initial license and at the
27 time of license renewal, his or her practice status, designated as
28 one of the following:

- 29 (1) Full-time practice in California.
30 (2) Full-time practice outside of California.
31 (3) Part-time practice in California.
32 (4) Medical administrative employment that does not include
33 direct patient care.
34 (5) Retired.

35 (6) Other practice status, as may be further defined by the board.

36 (c) (1) A licensed physician and surgeon shall report to the
37 board, immediately upon issuance of an initial license and at the
38 time of license renewal, and the board shall collect, information
39 regarding his or her cultural background and foreign language
40 proficiency. The board shall provide an option for a licensed

1 physician and surgeon to decline to state in the report his or her
2 cultural background and foreign language proficiency.

3 (2) Information collected pursuant to this subdivision shall be
4 aggregated on an annual basis based on categories utilized by the
5 board in the collection of the data, and shall be aggregated into
6 both statewide totals and ZIP code of primary practice location
7 totals.

8 (3) Aggregated information under this subdivision shall be
9 compiled annually and reported on the board's Internet Web site
10 on or before October 1 of each year.

11 (d) The information collected pursuant to subdivisions (a) and
12 (b) may also be placed on the board's Internet Web site.

13 SEC. 8. Section 12529 of the Government Code, as amended
14 by Section 19 of Chapter 33 of the Statutes of 2008, is amended
15 to read:

16 12529. (a) There is in the Department of Justice the Health
17 Quality Enforcement Section. The primary responsibility of the
18 section is to investigate and prosecute proceedings against licensees
19 and applicants within the jurisdiction of the Medical Board of
20 California, the California Board of Podiatric Medicine, the Board
21 of Psychology, or any committee under the jurisdiction of the
22 Medical Board of California.

23 (b) The Attorney General shall appoint a Senior Assistant
24 Attorney General of the Health Quality Enforcement Section. The
25 Senior Assistant Attorney General of the Health Quality
26 Enforcement Section shall be an attorney in good standing licensed
27 to practice in the State of California, experienced in prosecutorial
28 or administrative disciplinary proceedings and competent in the
29 management and supervision of attorneys performing those
30 functions.

31 (c) The Attorney General shall ensure that the Health Quality
32 Enforcement Section is staffed with a sufficient number of
33 experienced and able employees that are capable of handling the
34 most complex and varied types of disciplinary actions against the
35 licensees of the board.

36 (d) Funding for the Health Quality Enforcement Section shall
37 be budgeted in consultation with the Attorney General from the
38 special funds financing the operations of the Medical Board of
39 California, the California Board of Podiatric Medicine, the Board
40 of Psychology, and the committees under the jurisdiction of the

1 Medical Board of California, with the intent that the expenses be
2 proportionally shared as to services rendered.

3 ~~(e) This section shall become inoperative on July 1, 2012, and,~~
4 ~~as of January 1, 2013, is repealed, unless a later enacted statute,~~
5 ~~that becomes operative on or before January 1, 2013, deletes or~~
6 ~~extends the dates on which it becomes inoperative and is repealed.~~

7 *(e) This section shall remain in effect only until January 1, 2013,*
8 *and as of that date is repealed, unless a later enacted statute, that*
9 *is enacted before January 1, 2013, deletes or extends that date.*

10 SEC. 9. Section 12529 of the Government Code, as amended
11 by Section 20 of Chapter 33 of the Statutes of 2008, is amended
12 to read:

13 12529. (a) There is in the Department of Justice the Health
14 Quality Enforcement Section. The primary responsibility of the
15 section is to prosecute proceedings against licensees and applicants
16 within the jurisdiction of the Medical Board of California, the
17 California Board of Podiatric Medicine, the Board of Psychology,
18 or any committee under the jurisdiction of the Medical Board of
19 California, and to provide ongoing review of the investigative
20 activities conducted in support of those prosecutions, as provided
21 in subdivision (b) of Section 12529.5.

22 (b) The Attorney General shall appoint a Senior Assistant
23 Attorney General of the Health Quality Enforcement Section. The
24 Senior Assistant Attorney General of the Health Quality
25 Enforcement Section shall be an attorney in good standing licensed
26 to practice in the State of California, experienced in prosecutorial
27 or administrative disciplinary proceedings and competent in the
28 management and supervision of attorneys performing those
29 functions.

30 (c) The Attorney General shall ensure that the Health Quality
31 Enforcement Section is staffed with a sufficient number of
32 experienced and able employees that are capable of handling the
33 most complex and varied types of disciplinary actions against the
34 licensees of the board.

35 (d) Funding for the Health Quality Enforcement Section shall
36 be budgeted in consultation with the Attorney General from the
37 special funds financing the operations of the Medical Board of
38 California, the California Board of Podiatric Medicine, the Board
39 of Psychology, and the committees under the jurisdiction of the

1 Medical Board of California, with the intent that the expenses be
2 proportionally shared as to services rendered.

3 (e) This section shall become operative ~~July 1, 2012~~ *January*
4 *1, 2013*.

5 SEC. 10. Section 12529.5 of the Government Code, as amended
6 by Section 21 of Chapter 33 of the Statutes of 2008, is amended
7 to read:

8 12529.5. (a) All complaints or relevant information concerning
9 licensees that are within the jurisdiction of the Medical Board of
10 California, the California Board of Podiatric Medicine, or the
11 Board of Psychology shall be made available to the Health Quality
12 Enforcement Section.

13 (b) The Senior Assistant Attorney General of the Health Quality
14 Enforcement Section shall assign attorneys to work on location at
15 the intake unit of the boards described in subdivision (d) of Section
16 12529 to assist in evaluating and screening complaints and to assist
17 in developing uniform standards and procedures for processing
18 complaints.

19 (c) The Senior Assistant Attorney General or his or her deputy
20 attorneys general shall assist the boards or committees in designing
21 and providing initial and in-service training programs for staff of
22 the boards or committees, including, but not limited to, information
23 collection and investigation.

24 (d) The determination to bring a disciplinary proceeding against
25 a licensee of the boards shall be made by the executive officer of
26 the boards or committees as appropriate in consultation with the
27 senior assistant.

28 ~~(e) This section shall become inoperative on July 1, 2012, and,~~
29 ~~as of January 1, 2013, is repealed, unless a later enacted statute,~~
30 ~~that becomes operative on or before January 1, 2013, deletes or~~
31 ~~extends the dates on which it becomes inoperative and is repealed.~~

32 *(e) This section shall remain in effect only until January 1, 2013,*
33 *and as of that date is repealed, unless a later enacted statute, that*
34 *is enacted before January 1, 2013, deletes or extends that date.*

35 SEC. 11. Section 12529.5 of the Government Code, as amended
36 by Section 22 of Chapter 33 of the Statutes of 2008, is amended
37 to read:

38 12529.5. (a) All complaints or relevant information concerning
39 licensees that are within the jurisdiction of the Medical Board of
40 California, the California Board of Podiatric Medicine, or the

1 Board of Psychology shall be made available to the Health Quality
2 Enforcement Section.

3 (b) The Senior Assistant Attorney General of the Health Quality
4 Enforcement Section shall assign attorneys to assist the boards in
5 intake and investigations and to direct discipline-related
6 prosecutions. Attorneys shall be assigned to work closely with
7 each major intake and investigatory unit of the boards, to assist in
8 the evaluation and screening of complaints from receipt through
9 disposition and to assist in developing uniform standards and
10 procedures for the handling of complaints and investigations.

11 A deputy attorney general of the Health Quality Enforcement
12 Section shall frequently be available on location at each of the
13 working offices at the major investigation centers of the boards,
14 to provide consultation and related services and engage in case
15 review with the boards' investigative, medical advisory, and intake
16 staff. The Senior Assistant Attorney General and deputy attorneys
17 general working at his or her direction shall consult as appropriate
18 with the investigators of the boards, medical advisors, and
19 executive staff in the investigation and prosecution of disciplinary
20 cases.

21 (c) The Senior Assistant Attorney General or his or her deputy
22 attorneys general shall assist the boards or committees in designing
23 and providing initial and in-service training programs for staff of
24 the boards or committees, including, but not limited to, information
25 collection and investigation.

26 (d) The determination to bring a disciplinary proceeding against
27 a licensee of the boards shall be made by the executive officer of
28 the boards or committees as appropriate in consultation with the
29 senior assistant.

30 (e) This section shall become operative ~~July 1, 2012~~ *January*
31 *1, 2013*.

32 SEC. 12. Section 12529.6 of the Government Code is amended
33 to read:

34 12529.6. (a) The Legislature finds and declares that the
35 Medical Board of California, by ensuring the quality and safety
36 of medical care, performs one of the most critical functions of state
37 government. Because of the critical importance of the board's
38 public health and safety function, the complexity of cases involving
39 alleged misconduct by physicians and surgeons, and the evidentiary
40 burden in the board's disciplinary cases, the Legislature finds and

1 declares that using a vertical enforcement and prosecution model
2 for those investigations is in the best interests of the people of
3 California.

4 (b) Notwithstanding any other provision of law, as of January
5 1, 2006, each complaint that is referred to a district office of the
6 board for investigation shall be simultaneously and jointly assigned
7 to an investigator and to the deputy attorney general in the Health
8 Quality Enforcement Section responsible for prosecuting the case
9 if the investigation results in the filing of an accusation. The joint
10 assignment of the investigator and the deputy attorney general
11 shall exist for the duration of the disciplinary matter. During the
12 assignment, the investigator so assigned shall, under the direction
13 but not the supervision of the deputy attorney general, be
14 responsible for obtaining the evidence required to permit the
15 Attorney General to advise the board on legal matters such as
16 whether the board should file a formal accusation, dismiss the
17 complaint for a lack of evidence required to meet the applicable
18 burden of proof, or take other appropriate legal action.

19 (c) The Medical Board of California, the Department of
20 Consumer Affairs, and the Office of the Attorney General shall,
21 if necessary, enter into an interagency agreement to implement
22 this section.

23 (d) This section does not affect the requirements of Section
24 12529.5 as applied to the Medical Board of California where
25 complaints that have not been assigned to a field office for
26 investigation are concerned.

27 (e) It is the intent of the Legislature to enhance the vertical
28 enforcement and prosecution model as set forth in subdivision (a).
29 The Medical Board of California shall do all of the following:

30 (1) Increase its computer capabilities and compatibilities with
31 the Health Quality Enforcement Section in order to share case
32 information.

33 (2) Establish and implement a plan to locate its enforcement
34 staff and the staff of the Health Quality Enforcement Section in
35 the same offices, as appropriate, in order to carry out the intent of
36 the vertical enforcement and prosecution model.

37 (3) Establish and implement a plan to assist in team building
38 between its enforcement staff and the staff of the Health Quality
39 Enforcement Section in order to ensure a common and consistent
40 knowledge base.

1 ~~(f) This section shall become inoperative on July 1, 2012, and,~~
2 ~~as of January 1, 2013, is repealed, unless a later enacted statute,~~
3 ~~that is enacted before January 1, 2013, deletes or extends the dates~~
4 ~~on which it becomes inoperative and is repealed.~~

5 *(f) This section shall remain in effect only until January 1, 2013,*
6 *and as of that date is repealed, unless a later enacted statute, that*
7 *is enacted before January 1, 2013, deletes or extends that date.*

8 SEC. 13. Section 12529.7 of the Government Code is amended
9 to read:

10 12529.7. By March 1, ~~2014~~ 2012, the Medical Board of
11 California, in consultation with the Department of Justice and the
12 Department of Consumer ~~Affairs~~, ~~shall~~ *Affairs*, *shall* report and
13 make recommendations to the Governor and the Legislature on
14 the vertical enforcement and prosecution model created under
15 Section 12529.6.

16 SEC. 14. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution for certain
18 costs that may be incurred by a local agency or school district
19 because, in that regard, this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty for a crime
21 or infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime within the
23 meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 However, if the Commission on State Mandates determines that
26 this act contains other costs mandated by the state, reimbursement
27 to local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.